

Remarks

Claims 5, 17, 18, 24, 26, 28 and 29 are cancelled.

Claim 11 is amended for a typographical error in punctuation.

Applicant respectfully asserts that the claims as amended herein overcome and are allowable over the Examiner's rejection under 35 U.S.C. §103. Applicant respectfully asserts that the Examiner, by his own admission, confirms Holbrook fails to teach numerous aspects the invention. The Examiner, however, merely states in a passing comment that "it would have been obvious to one of skill in the art to provide" the missing feature.

As established by CAFC and Supreme Court decisions relating to the issue of obviousness, an Examiner must identify some articulated reasoning with rational underpinning to support the legal conclusion of obviousness taking into consideration all of the limitations of the claim.

Support for this position includes: "When determining whether a claim is obvious, an examiner must make "a searching comparison of the claimed invention – *including all its limitations* – with the teaching of the prior art." *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995) (emphasis added). Thus, "obviousness requires a suggestion of all limitations in a claim." *CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003) (*citing In re Royka*, 490 F.2d 981, 985 (CCPA 1974)).

Moreover, as the Supreme Court recently stated, "*there must be some articulated reasoning* with some rational underpinning to support the legal conclusion of obviousness." *KSR Int'l v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006) (emphasis added))."

In the present situation, the Examiner has not provided such *articulated reasoning* nor has the Examiner provided *rational underpinning* to support a conclusion of obviousness. With the foregoing in mind, applicant respectfully requests that the Examiner withdraw the rejection of obviousness based on the Holbrook reference and allow the amended claims to pass to issuance.

If there is any issue remaining to be resolved, the Examiner is invited to contact the undersigned attorney by telephone so that resolution can be promptly effected.

It is requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response with the fee for such extensions and shortages in other fees, being charged, or any overpayment in fees being credited, to the Account of Barnes & Thornburg LLP, Deposit Account No. 12-0913 with reference to our attorney docket number (27726-99600).

Respectfully submitted,

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